IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WA.No. 1976 of 2007()

AGAINST THE JUDGEMENT IN WPC.18406/2007 Dated 26/07/2007

APPELLANT: PETITIONER

M.J.DEVAKI, W/O.C.N.RAJAPPAN, VARKALA,
EDAKKURISSI, KAMMIBA P.O., PALAKKAD DISTRICT.

BY ADV. SRI.C.K.RAMAKRISHNAN

RESPONDENTS: RESPONDENT

STATE BANK OF INDIA,
MANKARA BRANCH,
PALAKKAD DISTRICT.

BY ADV. SRI.K.K.CHANDRAN PILLAI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1976 OF 2007

Dated this the 10th August, 2007

JUDGMENT

H.L.DATTU, C.J.

The third round of litigation by the appellant/petitioner before this Court. On an earlier occasion, petitioner was before this Court in W.P.(C) No.12663 of 2007. This Court had disposed of that Writ Petition by judgment dated 11th April, 2007. While doing so, this Court had specifically directed the petitioner to pay an amount of Rupees Four lakhs within a period of two months from the date of the judgment. Petitioner has not complied with the order and directions issued by this Court.

2. Thereafter, petitioner has filed yet another Writ Petition before this Court in W.P.(C) No.18406 of 2007. This Court by its judgment dated 26th July 2007, has rejected the Writ Petition in view of the earlier judgment. Aggrieved by the order so passed by the learned single Judge, the petitioner is before us in this Writ Appeal.

3. This is in the nature of a mercy petition. Petitioner is a defaulter in payment of the amounts due to the bank. The Bank has initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In the normal course, a writ would not lie, if any notice is issued under Section 13(2) of the Act by a financial institution in exercise of their powers under the provisions of the Securitisation Act. In spite of that, the Court had taken a very sympathetic

view of the matter and had directed the petitioner to deposit a sum of Rupees Four lakhs initially and also had granted instalment facilities to the petitioner to discharge the entire loan liability. Petitioner does not want to comply with that order, but wants us to interfere with the order passed by the learned Judge and grant her enough and more instalments so that the monies due to the financial institution could be paid at the will of the defaulter. We do not think such a prayer could be granted by courts. The financial institutions, some times, lend the amounts borrowed by them from other financial institutions and sometimes lend depositors money to the needy and new entrepreneurs with a fond hope that the borrowers would pay back the money borrowed with interest. If that money is locked up by granting interim orders and instalment facilities, that would certainly affect the business interest of the financial institutions. Therefore, we do not intend to encourage the attitude of the appellant. Accordingly, the appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/DK.